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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,061	01/18/2007	Hwan-Ho Shin	53227.830001.US0	4015
26582	7590	09/29/2010		
HOLLAND & HART, LLP			EXAMINER	
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DENVER, CO 80201				
			ART UNIT	PAPER NUMBER
			3771	
			MAIL DATE	DELIVERY MODE
			09/29/2010 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/561,061

**Applicant(s)**

SHIN, HWAN-HO

**Examiner**

Quang D. Thanh

**Art Unit**

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-6 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 23-26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/22)  
Paper No(s)/Mail Date 3/13/06 8/6/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of group II, claims 2-6 in the reply filed on 7/6/2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. This office action is responsive to the amendment filed on 7/8/2010. As directed by the amendment: claims 1, 7-22 have been cancelled, and new claims 23-30 have been added. Thus, claims 2-6 and 23-30 are presently pending in this application.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 2-4, 23, 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Re claim 2, "various operating modes" is unclear as to modes of what element ? The limitations " the pulse width" and "the duty ratio signal" lack antecedent basis. The terms "LCD" and "CPU" are not clear.
6. Re claim 3, "the operating voltage", "the step-up stage", "the switching-off" stage, and "the step-down stage" lack antecedent basis.
7. Re claim 4, "the user" and "the operating voltage" lack antecedent basis.
8. Re claim 23, the term "FET" is not clear.

9. Re claim 28, "the vibrating plate" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 2-6 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang (US 6,443,915).
12. Re claims 2-6, Hwang discloses a portable skin care device (fig. 1) comprising an apparatus for maintaining and supplying stable power to a skin care device, the apparatus comprising a DC-DC converting unit 262 (fig. 2) for escalating the voltages from a charged battery power source ; a skin-stimulating unit 260 (fig. 2) including an ion-inducting element; a switch unit having a main switch and various functional switches (fig. 2); an LCD displayer 110 (fig. 1) for indicating various operating modes; a CPU 200 (fig. 2) for controlling each component; a voltage-measuring unit (fig. 2) for measuring the voltage of said DC-DC converting unit; and a switching element (fig. 2) for controlling the pulse width (PWM) according to the duty ratio signal from the CPU; a PWM control signal function, which prolongs a switching- on stage by gradually increasing the voltage up to the operating voltage during the step-up stage, and inversely shortens the switching-off stage by gradually decreasing the operating voltage

during the step-down stage (fig. 2, col. 5, lines 1-30); a skin contact sensing unit 270 (fig. 2) for detecting contact of a vibrating part with the user's skin and a function of automatic step-up to the operating voltage when said skin detecting unit senses contact with the user's skin; a safety control signal function (col. 9, lines 10-17) which rapidly shuts off power when it detects an unusual operation.

13. Re claims 23 - 26, as best understood, Hwang discloses a main switch initiating unit having a function that, when said main switch is turned on, said CPU is activated by a switching signal inputted to an analogue input port from said CPU, first switch unit is activated by said CPU through an analogue output port, and FET is switched to supply battery power to said DC-DC converting unit (fig. 2); wherein said main switch has a function that a switch-in signal is inputted to said analogue input port for activating said CPU through a second switch unit (fig. 2); a photo-coupler 272 (fig. 2) and a phototransistor with a function that an output to the first switch unit from the CPU is carried out by switching of the FET by activating the photo-coupler of the phototransistor (col. 5, lines 46-54); a strength-adjusting switch 264 (fig. 2) for controlling the strength of the output voltage of the DC-DC converting unit, and a mode switch 114 (col. 6, lines 38-59) for operating various modes of supersonic vibrations controlled by each vibrating frequency.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang.

16. Hwang teaches a plurality of LEDs 112, 116, 120, 124, 126, 130 and 132 (col. 4, lines 33-38), which are used for adjusting the strength of modes and at least of the LEDs is for displaying the status of the skin care device operation, but does not explicitly disclose the disposition of each LEDs. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify Hwang's device, to have the LEDs disposed as claimed, since applicant has not disclosed that having the LEDs disposed on the device as claimed solves any stated problem or is for any particular purpose and it appears that the device would perform equally well with either designs.

Furthermore, absent a teaching as to criticality of the disposition of each LEDs, this particular arrangement is deemed to have been known by those skilled in the art since the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement. In re Kuhle, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

***Allowable Subject Matter***

17. Claims 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quang D. Thanh/  
Primary Examiner, Art Unit 3771